

COURTROOM MINUTES OF CRIMINAL PROCEEDINGS
Norfolk Division

SENTENCING MINUTES

Set:	<u>11:00 a.m.</u>	Date:	<u>August 24, 2022</u>
Started:	<u>11:00 a.m.</u>	Judge:	<u>Raymond A. Jackson, USDJ</u>
Ended:	<u>1:00 p.m.</u>	Court Reporter:	<u>Carol Naughton, OCR</u>
		U.S. Attorney:	<u>AUSA's E. Yusi, M. O'Boyle & A. Bosse</u>
		Defense Counsel:	<u>AFPD's L. McCaslin & A. Grindrod</u>
		Courtroom Deputy:	<u>Patrice Thompson</u>
		Probation Officer:	<u>Robert Bell, USPO</u>
		Interpreter	<u></u>

Case No. 2:19cr47(03)

Defendant: Aghee William Smith, II (☒) In Custody (☐) On Bond

X Came on for disposition. Deft. Sworn. Interpreter sworn

X Deft satisfied with advice, counsel, and effectiveness of counsel.

 Court adjudged deft. guilty of count of the

X Govt/Deft's X motion for downward departure.

 motion for acceptance of responsibility.

 Granted. X Denied.

X Presentence Report reviewed. X Objections heard and rulings made.

X Court adopts PSR for the purpose of establishing the advisory guidelines.

 Defendant waives his right to appear in person and CONSENTS to appear remotely.

X Evidence presented. (Exhibit listed on last page)

X Arguments of counsel heard. X Statement of deft. heard.

IMPRISONMENT:

SENTENCE: Counts 1, 2, 8, 9, 16 & 17: The deft. shall be committed to the custody of the BOP to be imprisoned for a total term of 156 months. The term consists of 156 months on count 1, a term of 60 months on count 2, to be run concurrently; and 156 months on each of counts 8, 9, 16 & 17, all to be served concurrently with count 1.

X The deft. is remanded to the custody of the U.S. Marshal.

 The deft. shall surrender for service of the sentence at the institution designated by the BOP/U.S. Marshal before on , as notified by the U.S. Marshal.

 If deft. is unable to arrange transportation to the designated institution, the United States Marshal will arrange transportation for the defendant.

 If the defendant is not notified by the United States Marshal of the institution designated, the defendant shall report to the United States Marshal at 600 Granby Street, Norfolk, VA, by on , to begin service of the sentence.

PROBATION:

_____ The deft. shall be placed on probation for a term of _____ years.

SUPERVISED RELEASE:

X Upon release from imprisonment, the deft. shall be on supervised release for a term of 3 years. This term consists of 3 years on counts 1, 2, 8, 9, 16 & 17, a term of _____ years on count _____, and a term of _____ years on count, all to run concurrently.

_____ The Court will not impose a term of supervised release as it is not required by statute and the defendant is a deportable alien who likely will be deported after imprisonment.

Standard Conditions of Supervised Release/Probation:

The defendant shall report in person to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

While on supervised release, the defendant shall not commit another federal, state, or local crime.

While on supervised release, the defendant shall not illegally possess a controlled substance.

While on supervised release, the defendant shall not possess a firearm, destructive device, or any other dangerous weapon.

_____ The deft. shall refrain from any unlawful use of a controlled substance and submit to one drug test within 15 days of commencement on supervised release and at least two periodic drug tests thereafter, as directed by the probation officer.

X As reflected in the presentence report, the deft. presents a low risk of future substance abuse and therefore, the court hereby suspends the mandatory condition for substance abuse testing as defined by 18 USC 3563 (a)(5). However, this does not preclude the U.S. Probation Office from administering drug tests as they deem appropriate.

_____ It shall be a condition of supervised release that the deft. pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

Special Conditions of Supervised Release/Probation:

_____ If the deft tests positive for illicit substances, he shall participate in a program approved by the United States Probation Office for substance abuse, which program may include residential treatment and testing to determine whether the deft. has reverted to the use of drugs or alcohol, with partial costs to be paid by the deft., all as directed by the probation officer.

_____ The deft. shall waive all rights of confidentiality regarding ~~substance abuse~~ / mental health treatment in order to allow the release of information to the United States Probation Office and authorize communication between the probation officer and the treatment provider.

_____ Upon completion of the term of imprisonment, the deft. is to be surrendered to a duly-authorized immigration official of the Department of Homeland Security United States Immigration and Customs Enforcement for repatriation in accordance with established procedures. As a further condition of supervised release, if ordered deported, the deft. shall remain outside of the United States.

_____ The deft. shall participate in a program approved by the United States Probation Office for mental health treatment. The cost of this program is to be paid by the defendant as directed by the probation officer.

_____ The deft. shall pay support for his minor child(ren) in the amount ordered by any social service agency or court of competent jurisdiction and shall register with the Department of Child Support Enforcement in any state in which he resides.

 X The deft. shall apply monies received from income tax refunds, lottery winnings, inheritances, judgments, and any anticipated or unexpected financial gains to the outstanding court-ordered financial obligation, or in a lesser amount to be determined by the court, upon the recommendation of the probation officer.

 X The deft. shall not incur new credit charges or open additional lines of credit without the approval of the probation officer.

 X The deft. shall provide the probation officer access to any requested financial information.

 X The deft. is prohibited from being employed in any capacity involving investments.

 X The offender shall participate in the Treasure Offset Program (TOP) as directed by the probation officer.

_____ The deft. shall participate in an educational and/or vocational program as directed by the probation officer.

_____ The defendant shall obtain a GED or a vocation skill during his period of supervision if not employed full-time.

_____ The deft. shall be on Home Detention, which shall include electronic monitoring at the deft's expense, for a period of _____ consecutive months/days. During this time, he/she shall remain at his/her place of residence except for employment and other activities approved in advance by the probation officer.

_____ Deft shall maintain a telephone at his place of residence without party lines, telephone answering machines, a modem, "call forwarding," "caller ID," "call waiting@, portable cordless telephones or any other devices or services that may interfere with the proper functioning of the electronic monitoring equipment for the above period. Deft shall wear an electronic monitoring device, follow electronic monitoring procedures, and pay the cost of electronic monitoring, all as directed by the probation officer.

_____ The deft. shall comply with the requirements of the computer monitoring program as administered by the Probation Office. The deft. shall consent to the installation of computer monitoring software on any computer to which the deft. Has access. Installation shall be performed by the probation officer. The software may restrict and/or record any and all activity on the computer, including the capture of keystrokes, application information, internet history, email correspondence, and chat conversations. A notice will be placed on the computer at the time of installation to warn others of the existence of the monitoring software. The deft. shall also notify others of the existence of the monitoring software. The deft. shall not remove, tamper with, reverse engineer, or in any way circumvent the software. The costs of the monitoring shall be paid by the deft.

_____ The deft. shall consent to the use of wi-fi detection devices, to allow the probation officer to detect the presence of wireless signals inside or outside of the defts. residence.

Sex Offender Special Conditions:

_____ The defendant shall participate in a program approved by the United States Probation Office for mental health treatment, to include a psychological evaluation, and sex offender treatment. The costs of these programs are to be paid by the defendant as directed by the probation officer. The defendant shall waive all rights of confidentiality regarding sex offender/mental health treatment in order to allow the release of information to the United States Probation Office and authorize communication between the probation officer and the treatment provider.

_____ The defendant shall register with the state sex offender registration agency in any state where the defendant resides, works, and attends school as directed by the probation officer.

_____ Pursuant to the Adam Walsh Child Protection and Safety Act of 2006, the defendant shall register with the state sex offender registration agency in any state where the defendant resides, works, and attends school, according to federal and state law and as directed by the probation officer.

Illegal Alien Special Conditions:

_____ As a condition of supervised release, upon completion of the term of imprisonment, the defendant is to be surrendered to a duly-authorized immigration official of the Department of Homeland Security Bureau of Immigration and Customs Enforcement for deportation in accordance with established procedures provided by the Immigration and Naturalization Act, 8 U.S.C. Section 1101, et seq. As a further condition of supervised release, if ordered deported, the defendant shall remain outside the United States.

_____ If at anytime the defendant illegally reenters the United States during the term of supervised release, his illegal reentry will be a violation of supervised release, as well as a violation of law.

FINANCIAL PENALTIESSPECIAL ASSESSMENT:

<u> X </u>	As to each of counts	<u> 1 and 2 </u>	,the deft shall pay a special assessment in the amount of	<u> \$100.00 </u>	.
<u> X </u>	As to each of counts	<u> 8, 9, 16 & 17 </u>	,the deft shall pay a special assessment in the amount of	<u> \$100.00 </u>	.
_____	As to count	_____	,the deft shall pay a special assessment in the amount of	_____	.
_____	As to count	_____	,the deft shall pay a special assessment in the amount of	_____	.

The total special assessment due is \$ 600.00 and shall be due in full immediately.

Any balance remaining unpaid on the ~~fine~~/special assessment at the inception of supervision, shall be paid by the deft. in installments of not less than \$50.00 per month, until paid in full. Said payments shall commence sixty (60) days after defts. supervision begins.

FINE:

 X Court finds deft. is unable to pay fine.

_____ The deft. shall pay a fine in the amount of \$ _____.

RESTITUTION:

 X The deft. shall make restitution in the amount of \$ 21,128,498.48.

 X Interest waived

 X Restitution Judgment Order, entered and filed in open court.

SCHEDULE OF PAYMENTS:

_____ Interest will not accrue if the special assessment/fine/restitution is paid in accordance with the schedule, or any modified schedule, set by this court.

 X The ~~special assessment/fine~~ special assessment/fine/restitution is due and payable immediately. Any balance remaining unpaid on the ~~special assessment/fine~~ special assessment/fine/restitution at the inception of supervision, shall be paid by the deft. in installments of not less than \$ 400.00 per month or 25% of net income, whichever is greater, until paid in full. Said payments shall commence 60 days after deft's supervision begins.

_____ At the time supervision commences, the probation officer shall take into consideration the defendant's economic status as it pertains to his ability to pay the special assessment/fine/restitution ordered and shall notify the court of any change that may need to be made to the payment schedule.

☒ Each restitution payment shall be divided proportionately among the payees named.

☒ Restitution shall be made jointly and severally with Kent Mareki (2:19cr47-01), David Alcorn (2:19cr47-02), Tony Scott Sellers (2:19cr47-04), Norma Jean Coffin (2:19cr47-06), Daryl G. Bank (2:17cr126-01), Raeann Gibson (2:17cr126-02), Billy J. Seabolt (2:17cr126-03) and Roger Odell Hudspeth (2:17cr122-01).

_____ Nothing in the Court's order shall prohibit the collection of any judgment, fine, or special assessment by the United States.

_____ Any special assessment, restitution, or fine payments may be subject to penalties for default and delinquency.

_____ Since this judgment imposes a period of imprisonment, payment of Criminal Monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments are to be made to the Clerk, United States District Court, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program.

_____ The deft. shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

☒ The deft. notified of right of appeal.

_____ Court noted that deft. waived right of appeal in plea agreement.

_____ On motion of gov't, remaining counts dismissed.

_____ The deft. is continued on present bond and cautioned re bail jumping.

☒ Court recommends to the Bureau of Prisons:

☒ The deft. be incarcerated in California, FCI Dublin if possible.

_____ The deft. be enrolled in a mental health program.

_____ The deft. be enrolled in a GED/educational program.

_____ The deft be enrolled in a drug education program.

_____ The deft be enrolled in a 500 hour Residential Drug Abuse Program (RDAP).

_____ The deft be enrolled in a substance abuse treatment program.

_____ The deft be enrolled in a vocational education program.

_____ Consent Order of Forfeiture, executed and filed in open court.

Additional Counts/Comments:

Govt. Exh 1. – UNDER SEAL

Victim Impact Statement read into the record.